

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8458 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT DAIRY DEVELOPMENT CORPORATION LTD

Versus

GANDHI DINESHCHANDRA NATVARLAL

Appearance:

1. Special Civil Application No. 8458 of 1993
MR KM PATEL for Petitioner No. 1
MR KS ACHARYA for Respondent No. 1
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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 01/04/2002

ORAL JUDGEMENT

Heard learned advocates for the parties. The petitioner has challenged the award made by the labour court concerned in Reference No. 69 of 1990 (Old Reference No. 187 of 1986) dated 31st March, 1993. The

labour court has granted reinstatement with continuity of service with 80 per cent back wages for the intervening period from 1st April, 1983 with all consequential benefits. Caveat was filed in this matter by the learned advocate Mr. Acharya on 13th July, 1993. Initially, while issuing rule, interim relief was granted qua back wages and it was refused qua reinstatement by order dated 3rd September, 1993 and pursuant to that order, the respondent has been reinstated in service and the back wages have been stayed by this court.

Today, learned advocate Mr. K.M. Patel appearing for the petitioner has placed on record an affidavit made by one Shailesh Jashwantraai Mehta working as Manager (Admn) in the petitioner corporation dated 1st April, 2002 alongwith one application dated 10th May, 2000 addressed to the Managing Director of the petitioner dairy by the respondent wherein VRS application of the respondent has been sanctioned by the petitioner and the amount in question has been received by the respondent workman. Receipt of the amount in question and the application dated 31st May, 2000 submitted by the respondent has been placed on record by the petitioner.

As per the documents placed alongwith an affidavit and application of the respondent dated 10th May, 2000, it appears that the respondent made an application dated 10th May, 2000 and requested the petitioner for accepting his application for voluntary retirement as per the VRS with effect from 1st April, 1983 and has further submitted that if his application with effect from 1.4.1983 is accepted, then, he is prepared to forego claim of 80 per cent of the back wages and as per page 66 of the petition, his application for voluntary retirement has been accepted by the petitioner and benefits accruing therefrom have also been paid to the respondent as appearing from the receipt dated 31st May, 2000, respondent addressed one application to the Managing Director of the petitioner corporation wherein the respondent has submitted that his application for voluntary retirement has been accepted by the petitioner corporation and has further submitted that there has been an amicable settlement with the corporation in connection with case no. 8458 of 1993 i.e. present petition pending before this court and he has received all the benefits available to him and there remains no dues payable by the corporation to the respondent and he has given consent for withdrawing the said petition from this court. Mr. Patel appearing for the petitioner has submitted that in view of this affidavit and the documents annexed thereto, the award in question made by

the labour court is required to be modified accordingly.

Therefore, considering the submissions made by the learned advocates for the parties and also in view of the documents placed on record alongwith the affidavit, the award made by the labour court concerned in Reference No. 69 of 1990 dated 31st March, 1990 is modified on the basis of correspondence, affidavit filed by the petitioner. Said affidavit and the correspondence is ordered to be taken on record. Accordingly, award made by the labour court qua back wages to the extent of 80 per cent for the intervening period is set aside and it is clarified that the award in respect of reinstatement has already been implemented by the petitioner corporation and the same has not been disturbed by this Court. Accordingly the award shall stand modified in terms of the settlement as narrated by the Manager in the affidavit dated 1st April, 2002. Rule is made absolute in terms indicated hereinabove. There shall be no order as to costs.

1.4.2002. (H.K. Rathod, J.)

Vyas